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MAR 10 2004

OFFICIAL

Case 7280&amp;C

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of :  
C.K. GHOSH ET AL. : Group Art Unit 1751  
Serial No. 10/047,689 : Examiner Eisa B. Elhilo  
Filed January, 15 2002 : Confirmation No.: 4733  
For CLEANING COMPOSITIONS :  
CONTAINING MULTIPLY-  
SUBSTITUTED PROTEASE  
VARIANTS

PETITION UNDER 37 CFR 1.181 TOWITHDRAW THE EXAMINER'S HOLDING OF ABANDONMENT

Commissioner for Patents

Washington, D.C. 20231

Dear Sir:

The Commissioner is hereby petitioned under 37 CFR 1.181 to withdraw the Examiner's holding of abandonment of the above-identified case for an alleged failure to timely respond to the Office Action mailed March 20, 2003. Applicants believe that there is no fee required with the filing of this petition; however, the Commissioner is hereby authorized to charge payment of any fees associated with this communication, including fees required to make any additional copies of this petition, to Deposit Account No. 16-2480 in the name of The Procter & Gamble Company therefor.

REMARKS

With regard to the above-identified Application, Applicants received a Notice of Abandonment mailed by the PTO on October 2, 2003 (copy enclosed) stating that this Application is abandoned in view of Applicants' failure to timely file a response within the statutory period of six months from the

mailing date of the Office Action. Applicants submit that the Examiner's holding of abandonment is erroneous for the following reasons:

1. On March 25, 2003, Applicants received a final Office Action mailed by the PTO on March 20, 2003 (copy enclosed). The time period for response within the statutory period of six months fell on Saturday, September 20, 2003. As a result, the time period for response tolled until Monday, September 22, 2003.

2. On Monday, September 22, 2003, Applicants' attorney filed a proper response to said Office Action. The response included: an amendment in response to the final office action; a PTO SB30 RCE transmittal; and a PTO SB17 fee transmittal. The response was sent via facsimile to the Examiner's attention at Technical Center 1700 (copy enclosed). The Auto-Reply Facsimile Transmission confirmation sheet (copy enclosed) generated by the PTO indicates that 14 pages (including the cover page), which constituted Applicants' response, were received by the PTO on September 22, 2003 at 3:37 p.m., EST.

In view of the foregoing remarks, Applicants seek favorable action by the Commissioner to reverse the Examiner's holding of abandonment of the above-identified Application. Accordingly, Applicants respectfully request that the response to the Office Action be viewed as having been filed in a timely fashion and that the processing of the Application to issuance be continued.

Respectfully submitted,

By Angela Marie Stone  
Angela Marie Stone  
Attorney for Applicants  
Registration No. 41,335  
(513) 634-9397

March 5, 2004

Customer No. 27752



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United States Patent and Trademark Office  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/047,689	01/15/2002	Chanchal Kumar Ghosh	7280&Cg	47336

27752 7590 10/02/2003

THE PROCTER & GAMBLE COMPANY  
INTELLECTUAL PROPERTY DIVISION  
WINTON HILL TECHNICAL CENTER - BOX 161  
6110 CENTER HILL AVENUE  
CINCINNATI, OH 45224

EXAMINER

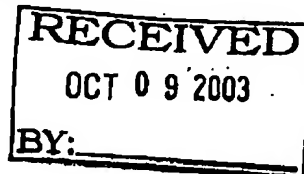
ELHILO, EISA B.

ART UNIT

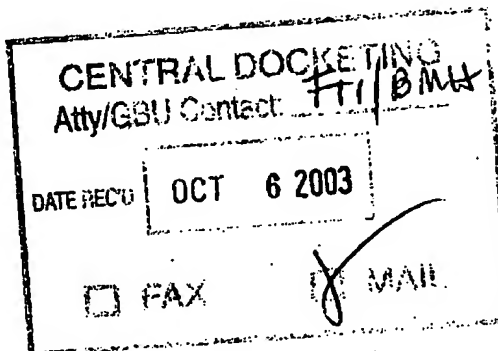
PAPER NUMBER

1751

DATE MAILED: 10/02/2003



Please find below and/or attached an Office communication concerning this application or proceeding.



**Notice of Abandonment**

Application N .

10/047,689

Examiner

Eisa B Elhilo

Applicant(s)

GHOSH ET AL.

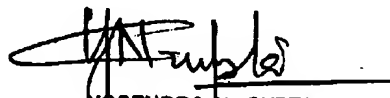
Art Unit

1751

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 20 March 2003.
  - (a) ☐ A reply was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.
  - (b) ☐ A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection. (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
  - (c) ☐ A reply was received on \_\_\_\_\_ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
  - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
  - (a) ☐ The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
  - (b) ☐ The submitted fee of \$\_\_\_\_\_ is insufficient. A balance of \$\_\_\_\_\_ is due.  
The issue fee required by 37 CFR 1.18 is \$\_\_\_\_\_. The publication fee, if required by 37 CFR 1.18(d), is \$\_\_\_\_\_.
  - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
  - (a) ☐ Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
  - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

  
 YOGENDRA N. GUPTA  
 SUPERVISORY PATENT EXAMINER  
 TECHNOLOGY CENTER 1700

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.



## UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION N.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/047,689	01/15/2002	Chanchal Kumar Ghosh	7280&C	4733

27752 7590 03/20/2003

THE PROCTER & GAMBLE COMPANY  
INTELLECTUAL PROPERTY DIVISION  
WINTON HILL TECHNICAL CENTER - BOX 161  
6110 CENTER HILL AVENUE  
CINCINNATI, OH 45224

EXAMINER

ELHILO, EISA B

ART UNIT

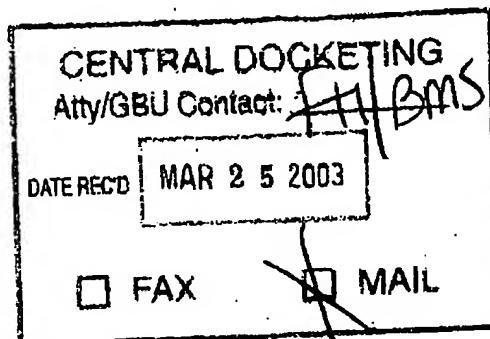
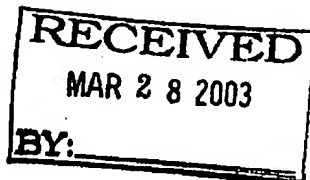
PAPER NUMBER

1751

5

DATE MAILED: 03/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.



**Office Action Summary**

Application No.

10/047,689

Applicant(s)

GHOSH ET AL.

Examiner

Eisa B Elhilo

Art Unit

1751

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --****Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 January 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 47-71 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 47-71 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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Art Unit: 1751

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### DETAILED ACTION

- 1 This action is responsive to the remarks filed on January 21, 2003.
- 2 The rejection of claims 47-71 under 35 U.S.C. 103(a) as being unpatentable over Baeck et al. (US 5,679,630) in view of Aaslyng et al. (US 6,197,567), is maintained for the reasons set forth in the previous office action on paper No. 3, dated 7/18/2002.

#### *Response to Applicant's Arguments*

- 3 Applicant's arguments filed on 1/21/2003 have been fully considered but they are not persuasive.

With respect to the rejection based upon Baeck (US' 630) in view of Aaslyng (US' 567), Applicant argues that there is no motivation to combine the references.

The examiner respectfully disagrees with the above argument because Baeck (US' 630) as a primary reference teaches and discloses a protease-containing cleaning composition comprising a protease variant having an amino acid sequences derived by replacing of amino acid residues that corresponding to positions 76 and 103 with one or more other amino acids correspond to different positions (see col. 3, lines 12-31). Aaslyng (US' 567) teaches in analogous art detergent composition comprising a modified protease variants that include different amino acid sequences relative to their parent proteases among the amino acids residues corresponds to positions at any one or more positions such as position 76 (see col. 21, lines 25-28) and at least one further amino acids residues occupying other positions such as 103 (see col. 21, lines 39). Further, Aaslyng teaches that the decrease in the NEC of the enzyme under circumstances could results in an improved wash performance of the enzymes (see col. 20, lines 22-30), and, thus, a person of the ordinary skill in the art would be motivated to modify the

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protease enzymes as taught by Aaslyng for a reasonable expectation of success. Therefore, there is a motivation to combine the references. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eisa B Elhilo whose telephone number is (703) 305-0217. The examiner can normally be reached on M - F (7:30-5:00) with alternate Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (703) 308-4708. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



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Art Unit: 1751

Elhilo

March 15, 2003

GREGORY DELCOTTO  
PRIMARY EXAMINER

A handwritten signature in black ink, appearing to read 'G. Delcotto', is written over the printed name and title.



UNITED STATES  
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FEB 20 2003

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Dear Patent Business Customer:

The United States Patent and Trademark Office ("Office") is now permitting and encouraging applicants to voluntarily submit amendments in a revised format as set forth in *AMENDMENTS IN A REVISED FORMAT NOW PERMITTED*, \_\_\_\_ *Off. Gaz. Pat. Office* \_\_\_\_ (February 25, 2003), currently available on the USPTO web site at <http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/revamdtprac.htm>. The revised format permits amendments to the specification and claims to be made in a single marked-up version; the requirement for a clean version is eliminated. Attached, you will find a flyer with information and instructions regarding the procedures to be used to comply with the revised format. The flyers are being inserted with out-going Office actions mailed during the period of February 20, 2003 - March 31, 2003.

The revised amendment format is essentially the same as the amendment format for the specification, claims, and drawings that the Office is considering adopting via a revision to 37 CFR 1.121 (Manner of Making Amendments). The revision to 37 CFR 1.121 (if adopted) will simplify amendment submission and improve file management. This proposed revision and others necessary to facilitate a gradual transition to the use of an Electronic File Wrapper (EFW) will be set forth in a Notice of Proposed Rule making (NPR), expected to be published by March 2003. After consideration of public comments, the Office anticipates adopting a revision to § 1.121, following publication of a Notice of Final Rule making (NFR), expected by June 2003, at which point compliance with revised § 1.121 will be mandatory.

The Office will continue to accept your amendment submissions in the revised format during the voluntary period, which will extend up to the effective date of final revisions to § 1.121. The Office also encourages your feedback on the proposed revised amendment format and other changes set forth in the NPR, expected to be published by March 2003.

For assistance: Any questions regarding the submission of amendments pursuant to the revised practice should be directed to Office of Patent Legal Administration (OPLA), Legal Advisors Elizabeth Dougherty ([Elizabeth.Dougherty@uspto.gov](mailto:Elizabeth.Dougherty@uspto.gov)), Gena Jones ([Eugenia.Jones@uspto.gov](mailto:Eugenia.Jones@uspto.gov)) or Joe Narcavage ([Joseph.Narcavage@uspto.gov](mailto:Joseph.Narcavage@uspto.gov)). Alternately, you may send e-mail to "Patent Practice", the OPLA e-mail address that has been established for receiving queries and questions about patent practice and procedures or telephone OPLA at (703) 305-1616.

Nicholas P. Godici  
Commissioner for Patents

Attachment: Flyer entitled: *Revised Notice\* AMENDMENTS MAY NOW BE SUBMITTED IN REVISED FORMAT*

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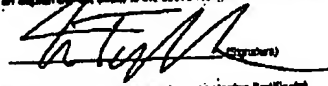
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Total Pages:

14 (including cover page)

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SEP-22-2003 16:33	PATENT - BRTC	5136346108 P.12/14
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<b>TO: Tech Center 1700 - United States Patent and Trademark Office</b> Fax No. 703-872-9310 Phone No.		
I hereby certify that the correspondence is being furnished in accordance with the United States Patent and Trademark Office on September 22, 2003, to the above-identified facsimile number.		
 (Signature)		
<b>FROM: Frank J. Kelly, Esq.</b> (Type or printed name of person signing Certificate) Fax No. 513-634-8108 Phone No. 513-634-8315		
Listed below are the item(s) being submitted with this Certificate of Transmittal.		Number of Pages including this Page: 14
1) PCT/JP03/001	Inventor(s): Shiroh Kato	
2) PTO 817 facsimile	S.N.: 10047880	
3) Amendments	File #: 1/25/2003	
4)	Case: 120028	
5)		
Comments:		
*Note: Each paper must have its own certificate of transmittal. ON this certificate must identify each submitted paper.		

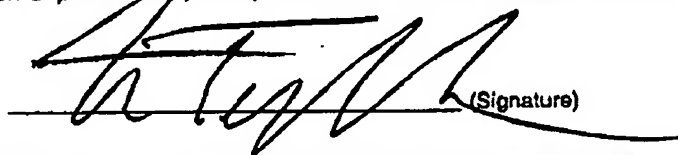
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Phone No.

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(Signature)**FROM: Frank Taffy, Esq.** (Typed or printed name of person signing Certificate)Fax No. 513/634-6108Phone No. 513/634-9315

Listed below are the item(s) being submitted with this Certificate of Transmission:\*\*

Number of Pages Including this Page: 14

- 1) RCE transmittal
- 2) PTO SB17 fee transmittal
- 3) Amendment
- 4)
- 5)

Inventor(s): Ghosh et al.  
S.N.: 10/047,689  
Filed: 1/25/2002  
Case: 7280C2&

Comments:

**\*\*Note:** Each paper must have its own certificate of transmission, OR this certificate must identify each submitted paper.

MAR 10 2004

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**FACSIMILE TRANSMITTAL SHEET AND  
CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8****TO: Examiner Eisa B. Elhilo - Group Art Unit 1751 - U.S.P.T.O**

Fax No. 703-872-9306

Phone No. 571-272-1315

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Donita Konrad (Signature)

**FROM: Donita Konrad (Typed or printed name of person signing Certificate)**

Fax No. 513-634-6108

Phone No. 513-634-9298

Listed below are the item(s) being submitted with this Certificate of Transmission:

1) Petition to Withdraw Holding of Abandonment and attachments (26 pgs.)

2)

3)

4)

5)

Comments:Number of Pages Including this Page: 27

Inventor(s): Ghosh et al.

S.N.: 10/047,689

Filed: January 15, 2002

Case: 7280&amp;C